

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

FRIEDRICH WILHELM WAFFENSCHMIDT,  
ANNA WAFFENSCHMIDT and SUNBURST  
FARMS, INC.

PLAINTIFFS

VERSUS

NO. EC83-81-WK-P

JACK W. MACKAY, JR.

DEFENDANT

---

SPECIAL VERDICT

---

INSTRUCTIONS TO THE JURY:

Please begin with Question No. 1. Please answer all  
questions in numerical order.

**FILED**

This 17<sup>th</sup> day of OCT, 1954

Norman L. Gillespie, Clerk

by W. L. S. Fung

Deputy Clerk

EXHIBIT

961

H&B 191175

IN RE: BASEBALL ANTITRUST LITIGATION  
42872

Question No. 1 (Common Law Fraud)

Do you find that Jack W. MacKay, Jr. committed a fraud upon the Waffenschmidts?

Yes ✓

No       

If your answer is "no", please go on to Question No. 2. If your answer is "yes", what amount do you find is the difference between what the Waffenschmidts paid for what they purchased and the value of what they received in turn?

Answer in dollars: \$ 0

Question No. 2 (Breach of Contract)

Do you find that Jack W. MacKay, Jr. breached the warranties in the Memorandum of Understanding?

Yes ✓

No       

If your answer is "no", please go on to Question No. 3. If your answer is "yes", what amount do you find will adequately compensate the Waffenschmidts for these damages suffered as a consequence of the breach of warranties in the Memorandum of Understanding by Jack W. MacKay, Jr., which damages were reasonably foreseeable at the time the Memorandum of Understanding was signed?

Answer in dollars: \$ 15,000

Question No. 3

3(a) (Material Misrepresentations in Connection with Sales of Stock)

Do you find that Jack W. MacKay, Jr. was a controlling person or a substantial factor or materially aided in the sale of shares of Sunburst Farms, Inc. to the Waffenschmidts and that he either had knowledge of the material misrepresentations or, in the exercise of reasonable care, could have learned of such misrepresentations?

Yes ✓

No       

3(b) (Fraudulent Misrepresentations in Connection with Sales of Stock)

Do you find that Jack W. MacKay, Jr. knowingly or recklessly either made fraudulent misrepresentations or aided and abetted others in doing so, upon which representations the Waffenschmidts justifiably relied in purchasing shares in Sunburst Farms, Inc.?

Yes ✓

No       

3(c) (Failure to Disclose All Material Matters Requires Registration of Shares)

Do you find that Jack W. MacKay, Jr. failed to disclose fully and accurately to the Waffenschmidts all material matters relating to an offer or sale to the Waffenschmidts of shares in Sunburst Farms, Inc.?

Yes ✓

No       

- 3 -

H&B 191177

IN RE: BASEBALL ANTITRUST LITIGATION  
42874

NYC0001428

3(d) If your answer is "no" to all three subparts of Question No. 3, please go on to Question No. 4. If your answer is "yes" to any one or more of the three subparts of Question No. 3 for either or both of the transactions closing on March 19, 1982 (the "First Closing") and June 2-4, 1982 (the "Second Closing"), your verdict for damages should be the following:

(i) For the First Closing

(A)	amount paid at First Closing	\$3,300,000
(b)	plus interest at 8% per year	<u>680,917</u>
		\$3,980,917

(ii) For the Second Closing

(A)	amount paid at Second Closing	\$2,401,698
(B)	plus interest at 8% per year	<u>459,866</u>
		\$2,861,564

(iii) Plus reasonable costs, including attorneys' fees stipulated by the parties \$ 400,000

If you find MacKay liable in respect to both the First and Second Closings, then your verdict for damages will be for the amounts in (i), (ii) and (iii).

Alternatively, if you find MacKay liable only for the First Closing, then your verdict for damages will be the amounts in (i) and (iii).

If you find MacKay liable for only the Second Closing, then your verdict for damages will be the amounts in (ii) and (iii).

Amount in dollars:

\$ 7, 2 4 2 , 4 8 1

- 4 -

H&B 191178

IN RE: BASEBALL ANTITRUST LITIGATION  
42875

NYC0001429

Question No. 4 (Racketeering Activity)

Do you find that Jack W. MacKay, Jr. violated the Racketeer Influenced and Corrupt Organizations Act of 1970 with respect to the Plaintiffs by engaging in "a pattern of racketeering activity" as defined in the Court's instructions?

Yes ✓No           

If your answer is "no", please go on to Question No. 5. If your answer is "yes", what amount do you find will adequately compensate Plaintiffs for their damages resulting from the violations of Section 901(a) of the Racketeer Influenced and Corrupt Organizations Act by Jack W. MacKay, Jr. multiplied by a factor of three, plus the reasonable costs of this suit to Plaintiffs, including stipulated attorneys' fees?

Answer in dollars and cents:

a. Damages

\$ 100,000

b. Trebled

(multiply amount in line a by 3)

                     : x 3  
\$ 300,000

c. Add stipulated reasonable costs, including attorneys' fees incurred by Plaintiffs

\$ 400,000.00

d. Verdict for Plaintiffs (add b and c)

\$ 700,000

- 5 -

H&amp;B 191179

IN RE: BASEBALL ANTITRUST LITIGATION  
42876

Do you find that Jack W. MacKay, Jr. converted farm machinery and equipment of Sunburst Farms, Inc.?

Yes ✓

No       

If your answer is "no", please go on to Question No. 6; provided, however, if your answers are also "no" to Question Nos. 1 and 2, you are to answer no further. If your answer is "yes", what amount do you find will fairly and adequately compensate Sunburst Farms, Inc. for the loss of its property ~~and~~ resulting from the acts of conversion of Jack W. MacKay, Jr.?

Answer in dollars

\$ 42,200

Question No. 6 (Punitive Damages - the Waffenschmidts)

If your answer to either of Question Nos. 1 or 2 was "yes", and if you find that the conduct of Jack W. MacKay, Jr. involved intentional wrong, malice, wilfulness or callous and reckless indifference to the rights of others, then you may assess punitive damages against Jack W. MacKay, Jr. as you find appropriate.

Amount of punitive damages  
in dollars

\$ 500.000

Question No. 7 (Punitive Damages - Sunburst Farms, Inc.)

If your answer to Question No. 5 was "yes", and if you find that the conduct of Jack W. MacKay, Jr. toward Sunburst Farms, Inc. involved intentional wrong, malice, wilfulness or callous and reckless indifference to the rights of others, then you may assess punitive damages against Jack W. MacKay, Jr. as you find appropriate.

Amount of punitive damages  
in dollars

\$ 100.000

Dated: Oct 17 1984

Bekkie Dean Armes  
JURY FOREMAN

- 6 -

H&B 191180

IN RE: BASEBALL ANTITRUST LITIGATION  
42877

**Exhibit 3**

**H&B 191181**

**IN RE: BASEBALL ANTITRUST LITIGATION  
42878**

CIV 31  
Rev 7/82

## JUDGMENT IN A CIVIL CASE

<b>United States District Court</b>		DISTRICT <b>NORTHERN, MISSISSIPPI</b>
CASE TITLE <b>FRIEDRICH WILHELM WAFFENSCHMIDT, ANNA WAFFENSCHMIDT and SUNBURST FARMS, INC V. JACK W. MACKAY, JR.</b>		DOCKET NUMBER <b>EC83-81-WK.</b>
		NAME OF JUDGE OR MAGISTRATE <b>WILLIAM C. KEADY</b>
<input checked="" type="checkbox"/> Jury Verdict. This action came before the Court and a jury with the judicial officer named above presiding. The issues have been tried and the jury has rendered its verdict.		
<input type="checkbox"/> Decision by Court. This action came to trial or hearing before the Court with the judge (magistrate) named above presiding. The issues have been tried or heard and a decision has been rendered.		
<b>IT IS ORDERED AND ADJUDGED</b>		
<p>That the plaintiffs FRIEDRICH WILHELM WAFFENSCHMIDT and ANNA WAFFENSCHMIDT, do have of and recover from the defendant, JACK W. MACKAY, JR., the sum of \$7,858,081.00, less the sum of \$3,000,000.00 which has been heretofore paid to these plaintiffs by settling parties, which reduces the award to the sum of FOUR MILLION, EIGHT HUNDRED FIFTY-EIGHT THOUSAND, EIGHTY-ONE DOLLARS (\$4,858,081.00).</p> <p>IT IS FURTHER ORDERED AND ADJUDGED that the plaintiff SUNBURST FARMS, INC., do have of and recover from the defendant, JACK W. MACKAY, JR., the sum of TWO HUNDRED TWENTY-SIX THOUSAND, SIX HUNDRED DOLLARS (\$226,600.00).</p> <p>IT IS FURTHER ORDERED AND ADJUDGED that the above sums awarded to plaintiffs, \$4,858,081.00 to the Waffenschmidts, and \$226,600.00 to Sunburst Farms, Inc., shall bear interest at the rate of 11.36 per annum from date until paid.</p> <p>IT IS FURTHER ORDERED AND ADJUDGED that all costs are taxed to the defendant, JACK W. MACKAY, JR., for which let execution issue.</p>		
CLERK <b>NORMAN L. GILLESPIE</b>		DATE <b>10/17/84</b>
(BY) DEPUTY CLERK <i>Mary S. Guyton</i>		<b>Mary S. Guyton</b>

H&amp;B 191182

IN RE: BASEBALL ANTITRUST LITIGATION  
42879



**Exhibit 4**

**H&B 191183**

**IN RE: BASEBALL ANTITRUST LITIGATION  
42880**

**NYC0001434**